
(2003) 03 KAR CK 0091

In the Karnataka High Court

Case No : S.T.R.P. No's. 78 of 2001, 52 and 53 of 2002

Vima Rubbers Pvt. Ltd.

APPELLANT

Vs

Commercial Tax Officer (INTL.) and Another

RESPONDENT

Date of Decision : 31-03-2003

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 23 (1), 5 (5) (b) (ii)

Citation : (2006) 143 STC 486

Hon'ble Judges : S.B. Majage, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : P.H. Virupakshaiah, for the Appellant; N.K. Ramesh, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Majage, J.—These petitions are filed u/s 23(1) of the Karnataka Sales Tax Act, 1957 (hereinafter called as "the Act"), challenging the order of the Tribunal, under which the orders passed by the first appellate authority and the assessing authority have been confirmed.

2. With consent, taken for final hearing and heard. It is submitted for the petitioner-assesses that the Tribunal as well as other authorities under the Act committed an error in holding the petitioner as "manufacturer" and, even otherwise, when the turnover of the petitioner during the relevant 3 periods in question was less than Rs. 2 lakhs, it was not liable to pay tax but, still wrongly interpreting Section 5(5)(b)(ii) of the Act held that the petitioner is liable to pay tax, as determined by the assessing authority and consequently, all the said orders require to be interfered with. On the other hand, the learned Counsel for the respondent supported the impugned orders. Perused the records carefully.

3. Brief facts, which gave rise to the present petitions are : The petitioner is engaged in the manufacture of tyre flaps for and on behalf of M/s. Vikrant Tyres, Mysore, and for the purpose of manufacturing of tyre flaps, the petitioner had

purchased firewood locally within the State of Karnataka from unregistered dealers. On inspection of its premises, on September 6, 1994, it was issued with a notice and then proceeded to pass order imposing tax on the turnover of purchase of firewood by it during the years 1991-92, 1992-93 and 1993-94. So, that was challenged unsuccessfully even before the Tribunal ultimately. Hence the present revision petitions.

4. For the petitioner, it is contended that petitioner is not a manufacturer but a dealer and as such, not liable to pay tax in view of Section 5(5)(b)(ii) of the Act. The petitioner has stated in the petitions that it is engaged in the work of undertaking the work for and on behalf of M/s. Vikrant Tyres, a works contract for the manufacture of tyre flaps and in this regard, an agreement has been entered into between it and M/s. Vikrant Tyres with the terms and conditions that it will be paid cost of manufacture of each flap. This itself shows that the petitioner is a manufacturer of tyre flaps for and on behalf of M/s. Vikrant Tyres. Admittedly, tax was not paid by M/s. Vikrant Tyres for the purchase of firewood made for manufacture of tyre flaps. That apart, it is not disputed before us that it is a "manufacturer" of tyre flaps. All the authorities, including the Tribunal, have correctly held that the manufacturer is a class of dealer by itself as distinguished from dealers specifically referred to in the said provision and as such the petitioner cannot say that it is not a "manufacturer".

5. Further, what was assessed was the turnover on the purchase of firewood made by the petitioner locally during three years. Admittedly, the petitioner has purchased firewood from unregistered dealers within the State of Karnataka only and not that firewood had been supplied as raw material to it by M/s. Vikrant Tyres. That apart, during inspection of the premises of the petitioner, various incriminating documents and vouchers/receipts were found showing such purchase of firewood by petitioner only. When this is so, and when the firewood was not supplied by M/s. Vikrant Tyres, the only point for consideration was, whether the said purchase attracted the provision contained in Section 5(5)(b)(ii) of the Act or not.

6. As noted already, the petitioner is a manufacturer of tyre flaps and manufacturer itself is a class of dealers, as observed by the first appellate authority. Admittedly, manufacturer is covered under the said provision of law and purchase of firewood by the petitioner within the State of Karnataka during the relevant years exceeded Rs. 1 lakh, though it was less than Rs. 2 lakhs. So far as purchase made outside the State is concerned, it refers "dealers" specifically mentioned therein and not a "manufacturer". In view of the above, said provision of law was not of any help to the petitioner. What has been held by the authorities in the impugned orders is that only. So, on facts, the finding arrived at by the authorities and the Tribunal under the Act, do not suffer from any infirmity whatsoever and the petitioner was found rightly assessed for tax under the Act.

7. In the above view of the matter, we are clearly of the opinion that no question

of law, much less substantial question of law is involved in the matter when the impugned orders show that provision of law has been correctly interpreted with reference to the facts of the matters on hand and as such, these petitions do not require to be admitted. At any rate, the view taken by the authorities and the Tribunal, is not perverse or against any provision of law giving rise to any substantial question of law to be determined by this Court.

In the result, the petitions are rejected.